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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

CALIFORNIA COALITION FOR WOMEN
 PRISONERS et al.,

Plaintiffs,

v.

UNITED STATES OF AMERICA FEDERAL
 BUREAU OF PRISONS et al.,

Defendants.

Case No. 4:23-cv-04155-YGR

**PLAINTIFFS' EX PARTE REQUEST
 FOR ENLARGEMENT OF TIME
 UNDER FED. R. CIV. P. 6(b) &
 4(i)(4)(B)**

Judge: Hon. Yvonne Gonzalez Rogers

Trial Date: None Set

1 Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, Plaintiffs hereby
2 request an extension of time to serve the individual Defendants who have not yet been
3 served. Plaintiffs have complied with FRCP Rule 4(i)(3) by serving the United States as to
4 all individual Defendants. Under Rule 4(i)(4)(B), Plaintiffs are entitled to a “reasonable
5 time” to complete service on all individual Defendants.

6 A defendant must be served within 90 days of the filing of a complaint. Fed. R. Civ.
7 P. 4(m). The “reasonable time” extension of Rule 4(i)(4)(B) applies where, as here, the
8 Plaintiffs have served the United States, but require more time to complete service on the
9 individual capacity Defendants. The complaint in this case was filed on August 16, 2023.
10 See ECF 1. Within the 90-day time period, Plaintiffs completed service on nine of the
11 fifteen Defendants in this matter, including the BOP Director, then-Warden Jushino, and
12 six individual BOP employees.. For the remaining defendants, six other individual
13 employees or ex-employees of the Bureau of Prisons, Plaintiffs had completed the first
14 required step of service—service on the United States—well within the 90-days. *See* ECF
15 No. 43. On November 10, 2023, the Plaintiffs moved for an extension of time to complete
16 service on the remaining six defendants. On November 27, 2023, the Court extended time
17 for service to February 9, 2023.

18 Plaintiffs’ Counsel have undertaken exhaustive efforts to complete service on the
19 remaining individual Defendants, but have not been able to do so due to a variety of
20 barriers. Each of the six defendants are addressed individually below.

21 1. Officer Darrell Wayne Smith. Plaintiffs have attempted personal service at
22 Smith’s last known address in Florida eight times between September 14, 2023 and
23 January 18, 2024. The house appears to be occupied, but no one responds to the attempts
24 at service. Galvan Decl. ¶¶ 2a-g. Plaintiffs’ counsel has contacted Officer Smith’s
25 criminal defense counsel in the matter *United States v. Smith*, No. 23-CR-00110 YGR, to
26 confirm the address and to ask whether counsel would accept service on his behalf.
27 Galvan Decl. ¶ 2h, Exhibit G. Counsel confirmed the address but decline to accept
28 service. Plaintiffs have also attempted service via USPS certified mail, but the items were

1 returned undelivered.

2 2. Officer Nakie Nunley. Plaintiffs attempted personal service at Officer Nunley's
3 last known address. Someone at the home informed the process server that she had
4 recently bought the house and did not know the previous owner. A public records search,
5 however, gave only the same address for Officer Nunley. Plaintiffs' counsel has contacted
6 Officer Smith's criminal defense counsel in the matter *United States v. Nunley*, No. 23-
7 CR-00213 YGR, to confirm the address and to ask whether counsel would accept service
8 on his behalf. Galvan Decl. ¶¶ 3a-c, Exhibits I & J.

9 3. Lieutenant Jones. This name is too common to permit finding an address for
10 service via public records searches. This is true even after investigation revealed the
11 officer's likely first name. Plaintiffs' counsel has served an interrogatory on the BOP to
12 determine Lieutenant Jones's correct full name and residential address for service. Galvan
13 Decl. ¶ 4.

14 4. Officer Lewis. This name is too common to permit finding an address for
15 service via public records searches. Plaintiffs' counsel has served an interrogatory on the
16 BOP to determine the correct full name and residential address for service. Galvan Decl.
17 ¶ 5.

18 5. Officer Serrano. This name is too common to permit finding an address for
19 service via public records searches. Plaintiffs' counsel has served an interrogatory on the
20 BOP to determine the correct full name and residential address for service. Galvan Decl.
21 ¶ 6.

22 6. Officer Vasquez or Vazquez. This name is too common to permit finding an
23 address for service via public records searches. This is true even after investigation
24 revealed the officer's likely first name. Plaintiffs' counsel has served an interrogatory on
25 the BOP to determine Lieutenant Jones's correct full name and residential address for
26 service. Galvan Decl. ¶ 7.

27 Rule 6(b) of the Federal Rules of Civil Procedure permits parties to seek an
28 extension of time for any act that "may or must be done within a specified time." Fed. R.

1 Civ. P. 6(b). Where the time for the required action has not yet expired and good cause
2 exists, the Court may grant an extension *ex parte* or without notice. *Id.* at 6(b)(1)(A).
3 Here, the time for the required action, as extended by this Court's order of November 27,
4 2023, will not expire until February 9, 2024.

5 Having undertaken significant efforts to identify and serve the individual remaining
6 Defendants named above, Plaintiffs request that the Court grant an enlargement of time
7 under Rule 6(b) and Rule 4(i)(4), extending the time they have to effect service on the
8 individual Defendants. Plaintiffs request that the time for service be extended to March 15,
9 2024.

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11
12 DATED: January 26, 2024

Respectfully submitted,

13 ROSEN BIEN GALVAN & GRUNFELD LLP

14 By: /s/ Luma Khabbaz

15 Luma Khabbaz

16 Attorneys for Plaintiffs
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